

भारत का राजपत्र **The Gazette of India**

असाधारण
EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 22nd February, 1974:—

BILL No. 86 OF 1973

A Bill further to amend the Workmen's Compensation Act, 1923.

Be it enacted by Parliament in the Twenty-fourth Year of Republic of India, as follows:—

1. (1) This Act may be called the Workmen's Compensation (Amendment) Act, 1973.

Shrot title
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on the date or dates which may be notified by the appropriate Government in the Official Gazette and different dates may be fixed for different provisions and different areas.

2. In section 2 of the Workmen's Compensation Act, 1923, (hereinafter referred to as the principal Act) in sub-section (1),—

Amend-
ment of
Section 2.

(i) in clause (c), for the word "means", the word "includes" shall be substituted;

(ii) in clause (d),—

(1) in sub-clause (i), after the words "widowed mother", the words "step-sons, or step-daughters" shall be added;

(2) in sub-clause (ii), after the word "infirm", the words "or step-sisters" shall be added;

(3) in sub-clause (iii) (b), after the words "widowed-mother", the words "or step-father or step-brother" shall be added;

(iii) after clause (e), the following clause shall be added:—

"(ee) "Industrial Court" means Industrial Court constituted under section 10 of the Bombay Industrial Relations Act, 1946";

Bombay
Act XI of
1947.

(iv) in clause (u), sub-clause (ii), the words "on monthly wages not exceeding five hundred rupees" shall be omitted.

Amend-
ment of
section 3.

3. In section 3 of the principal Act,—

(a) for sub-section (5), the following sub-section shall be substituted:—

"(5) Nothing herein contained shall in any way, prejudice the right of the workmen for damages available under any law for the time being in force."

(b) after sub-section (5), the following sub-sections shall be added:—

"(6) Notwithstanding the fact that the workman is entitled to or has received compensation for the permanent partial disablement, the employer concerned shall be liable to continue him in the employment without making any adverse effect in his emoluments.

(7) The employer shall get all the workmen working under him insured against the accidents and the premium shall be paid by the employer for such insurance.

(8) It shall be the duty of the employer to provide for medical care and treatment free of charge to the injured workman who meets with an accident on the premises of the employer."

Insertion
of new
section 4B.

4. After section 4A of the principal Act, the following new section shall be inserted:—

Additional
amount
payable on
cessation
of employ-
ment.

"4B. Notwithstanding anything contained in any law for the time being in force, a workman meeting with an accident during the course of and arising out of employment resulting in permanent, partial or total disablement shall not be considered to be suffering from continued ill health and if he dies, or leaves the job voluntarily or is discharged by the employer, he or his dependents as the case may be, shall be paid in addition to the compensation in lump-sum or half monthly payments, an additional compensation at the rate of one month's average wages for each completed year of service or any part thereof in excess of six months without prejudicing his rights available under section 25(F) of the Industrial Disputes Act, 1947, or under section 4 of the Payment of Gratuity Act, 1972."

14 of 1947.
39 of 1972.

5. In the end of section 13 of the principal Act, the following words shall be added at the end:—

Amend-
ment of
section
13.

“and any such question of indemnification on application being made, shall also be settled by the Commissioner.”

Indemnifi-
cation.

6. In section 18A of the principal Act, in sub-section (1), the words “and shall not be allowed to avail the defence under section 3 of the Act” shall be added at the end.

Amend-
ment of
section
18A.

7. In section 21 of the principal Act, in sub-section (1),—

Amend-
ment of
section 21.

(a) after the words “in the injury”, the words “or for the area in which the workman ordinarily used to report for work or was receiving the wages” shall be added.

(b) in the proviso—

(i) after the word “seamn”, the words “or engaged in a Public Motor Transport or Air Transport” shall be added;

(ii) at the end of the proviso, the words “or where the workman ordinarily used to report for work or was receiving wages” shall be added.

8. After section 23 of the principal Act, the following new section shall be inserted:—

Insertion
of new
section 22A.

“23A. Certificate regarding injury or death, post-mortem reports, Chemical Examiner's reports, Sereologist's reports, Radiologist's reports or Hospital reports and Bed-Head tickets issued by competent medical authorities shall be accepted as evidence and the correctness of the entries shall be presumed and onus to prove contrary shall lie on the employer and the examination of the signatory to such reports shall be depended upon unless otherwise required by the Commissioner on application being made by the employer.”

Admissible
Evidence.

9. In sections 27, 30 and 30A of the principal Act, for the words “High Court” wherever they occur, the words “Industrial Court and in the States, where there is no such Industrial Court, the Industrial Tribunal constituted under section 7A of the Industrial Disputes Act, 1947” shall be substituted.

Amend-
ment of
sections 27,
30 and
30A.

STATEMENT OF OBJECTS AND REASONS

The Workmen's Compensation Act, 1923, as at present in force neither provides for compulsory insurance of the workmen against accidents, nor for continuance in the employment of the workmen injured due to accidents during the course of and arising out of employment, nor for payment of unemployment compensation in consideration of the length of service when thrown out of employment.

Similarly there is no positive provision for dispensing with the evidence of medical authorities when there is documentary evidence coming from the records of competent medical authorities. The present provision regarding venue of filing claims and appeals also adds to the hardships of the injured workman and his dependents and as such, the ends of justice, are being felt to be defeated.

Certain categories of dependents are also missing in the list of dependents and the workmen are deprived of the benefit of damages available under Civil Law.

The aforesaid lacuna requires to be removed by making suitable provisions:—

- (i) by adding the missing categories of dependents,
- (ii) by prescribing venue or work place for filing claims,
- (iii) by changing forum of appeal from High Court to Industrial Court,
- (iv) by requiring the employer:—
 - (a) to continue in employment the injured workman without reduction in wages,
 - (b) to have compulsory insurance of the workmen against accidents,
 - (c) providing free medical care and treatment,
 - (d) to pay extra amount of un-employment compensation, in case, where the workman ceases to be in employment, and
- (v) by amending the rules of evidence to the effect that—
 - (a) documentary evidence coming from the records of the competent medical authorities may be admitted, and
 - (b) oral evidence of such authorities may be dispensed with, and
 - (c) by laying the onus of proof to prove the contrary on the employers, and
- (vi) by allowing the workman to avail of benefits of damages available under any law for the time being in force.

The Bill seeks to achieve this object.

FINANCIAL MEMORANDUM

Clauses 2, 3 and 4 of the Bill seek to make provisions for continuance of employment of a workman injured during the course of his employment and also compulsory insurance against the accidents, etc. An estimated recurring expenditure to the tune of about one lakh is likely to be involved from the Consolidated Fund of India for implementation of these provisions in the establishments run by the Central Government.

Anon-recurring expenditure of about rupees fifty thousand is also likely to be involved from the Consolidated Fund of India.

BILL No. 87 OF 1973

A Bill further to amend the Payment of Wages Act, 1936.

Whereas it is expedient to provide for further restrictions on illegal deductions from the wages and more effective inspection of the implementation of the Payment of Wages Act, 1936;

BE it enacted by Parliament in the Twenty-fourth Year of Republic of India as follows:—

Short title
extent and
com-
mence-
ment.

1. (i) This Act may be called the Payment of Wages (Amendment) Act, 1973.

(2) It extends to the whole of India.

(3) It shall come into force on the date or dates which may be notified by the appropriate Government in the Official Gazette and different dates may be fixed for different provisions and different areas.

Amend-
ment of
section 1.

2. Sub-section (6) of section 1 of the Payment of Wages Act, 1936 (hereinafter referred to as the principal Act) shall be omitted.

Amend-
ment of
section 2.

3. In section 2 of the principal Act, for clause (ia), the following clause shall be substituted, namely:—

‘(ia) “employer” includes a contractor and the legal representative of a deceased employer or contractor;’.

4. In section 3 of the principal Act, after the words "employed by him", the words "either directly or through contractor" shall be inserted.

Amend-
ment of
section 3.

5. In section 5 of the principal Act,—

Amend-
ment of
section 5.

(a) in sub-section (1), after the word "payable", the words "and if such day is a holiday then on previous day" shall be inserted;

(b) in sub-section (4), the words "and during the working hours of the employed persons" shall be added at the end.

6. In section 7 of the principal Act,—

Amend-
ment of
section 7.

(a) *Explanation II* to sub-section (1) shall be deleted;

(b) in sub-section (2), after clause (o), the following clause shall be inserted, namely:—

"(p) deductions for payment of subscription or any contribution towards any funds of the Trade Union of which the employed person is a member on his giving the authority in writing.";

(c) in sub-section (3),—

(i) in clause (i), for the words "seventy-five per cent.", the words "twenty-five per cent." shall be substituted;

(ii) in clause (ii), for the words "fifty per cent.", the words "fifteen per cent." shall be substituted;

(iii) in the proviso, for the words "seventy-five per cent. or, as the case may be, fifty per cent.", the words "twenty-five per cent. or, as the case may be, fifteen per cent." shall be substituted.

7. After section 7 of the principal Act, the following new sections shall be inserted, namely:—

Insertion
of new
sections
7A and 7B.
Deductions
for dama-
ged or
sub-
standard
goods
not per-
missible.

"7A. Deductions from the wages of an employed person (including those paid on piece rate basis) for damaged or sub-standard goods prepared or manufactured by him which are rejected by the employer shall not be permissible if the employer sells such sub-standard or damaged goods in the market even at a lower price than the market price.

7B. In case, where looking to the nature of the duties of the employed persons, security deposits are required as per the terms of contract, the employer shall pay an interest at not lower than 8.5 per cent per annum and non-payment of such interest shall be considered an illegal deduction for the purpose of this Act, and no deductions or fines of any kind shall be made from or adjusted against the principal amount or the interest which accrues on the amount of security deposit."

Deductions
from
security
deposits
and
interest
thereon
not per-
missible.

8. In section 8 of the principal Act, in sub-section (4), for the words "half-an-anna", the words "two paise" shall be substituted.

Amend-
ment of
section 8.

Amend-
ment of
section
14.

9. In section 14 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) President, General Secretary and Secretaries of every Trade Union registered under the Trade Unions Act, 1926, which has completed or completes five years of existence, and has got on their rolls living and paid membership of at least 25 per cent of the total strength of the employed persons employed in the factory or establishment in which such Trade Unions are functioning shall be Honorary Inspectors for the said factory or establishment.”,

16 of 1926.

(b) in sub-section (4), after the word “Inspector”, the word “or Honorary Inspector” shall be inserted.

Amend-
ment of
section 15.

10. In section 15 of the principal Act, in sub-section (4),—

(i) in clause (a), for the words “to the employer or other person responsible for the payment of wages”, the words “to any Trade Union functioning in the respective establishment or to any such body constituted under any law for the time being in force for the purpose of welfare of the working class” shall be substituted;

(ii) in clause (b), for the words “to the State Government”, the words “to any Trade Union functioning in the respective establishment or to any such body constituted under any law for the time being in force for the purpose of welfare of the working class” shall be substituted.

Amend-
ment of
section 17.

11. In section 17 of the principal Act, in sub-section (1),—

(i) for the words “in a Presidency town before the Court of Small Causes and elsewhere before the District Court”, the words “before the Industrial Court constituted under section 10 of the Bombay Industrial Relations Act, 1946 and, in the States where Bombay Industrial Relations Act, 1946 is not in force, before the Industrial Tribunal constituted under Section 7A of the Industrial Disputes Act, 1947” shall be substituted;

Bombay
Act XI
of 1947.
14 of 1947.

(ii) in clause (a), for the words “three hundred rupees” and “one thousand rupees”, the words “five hundred rupees” and “two thousand rupees” respectively shall be substituted.

Amend-
ment of
section 18.

12. In section 18 of the principal Act, the words “and every such authority shall also have the powers of a Revenue Officer under Bombay Land Revenue Code” shall be added at the end.

Amend-
ment of
section 20

13. In section 20 of the principal Act,—

(a) in sub-section (1), the words “or with imprisonment for a term which may extend to six months, or with both” shall be added at the end;

(b) in sub-section (2), the words “or with imprisonment for a term which may extend to six months, or with both” shall be added at the end;

(c) in sub-section (3), the words “or with imprisonment for a term which may extend to six months, or with both” shall be added at the end;

(d) after sub-section (6), the following sub-section shall be inserted namely:—

“(7) Any fine or penalty, imposed under this Act, shall be realised by the authority as an arrear of Land Revenue and shall be utilized for only such purposes, beneficial to the persons employed in the factory or establishment, as are approved by the prescribed authority and through such body constituted under any Law for the time being in force for the purposes of welfare of the working class.”.

STATEMENT OF OBJECTS AND REASONS

Efforts by some employers to defeat the purpose of the Payment of Wages Act, 1936 has necessitated the more effective provisions to regulate the payment of wages and inspection machinery.

The Bill seeks to achieve this object by providing for more comprehensive definition of employer to include contractors, clarifications regarding time for payment of wages, deductions towards Union subscriptions permissible, restriction on malpractices by employer regarding illegal deduction by way of non-payment of interest on amount of security deposit and adjustment of excessive fines and other illegal deductions from the amount of security deposits, deduction of wages under the pretext of sub-standard goods produced by the employed persons, association of responsible Trade Unions for more effective implementation of this Act, and utilisation of the amount of fines and damages recovered from employers towards welfare of the working class either through Trade Unions or through other bodies constituted under any statute for the purpose.

NEW DELHI;

PRASANNBHAI MEHTA.

The 25th September, 1973.

FINANCIAL MEMORANDUM

The proposed new section 7B *vide* clause 7 of the Bill seeks to provide for payment of interest on security deposits where required to be made by the persons employed in industrial establishments. The Bill, therefore, if enacted, is likely to involve recurring expenditure of about rupees five lakhs from the Consolidated Fund of India in case of Central Government undertakings.

No non-recurring expenditure is likely to be involved.

BILL No. 85 of 1972

A Bill further to amend the Factories Act, 1948.

WHEREAS it is expedient to provide for Fair Price Shops, housing, excursions, reduction of working hours and empowering Office Bearers of Trade Unions, to have the power of Inspectors and filing prosecution, etc.;

Be it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1.(1) This Act may be called the Factories (Amendment) Act, 1973.

(2) It extends to the whole of India.

(3) It shall come into force on the date or dates which may be notified by the appropriate Government in the official gazette and different dates may be fixed for different provisions and different areas.

2. In section 8 of the Factories Act, 1948 (hereinafter referred to as the principal Act), after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) President, General Secretary and Secretaries of every Trade Union registered under the Trade Unions Act, 1926, which has completed or completes five years of existence and has got on

Short
Title,
extent and
commence-
ment.

Amend-
ment of
section 8.

their rolls living and paid membership of a least 25 per cent. of the total strength of workers working in the factory in which such Trade Unions are functioning, shall be Honorary Inspectors for the said factory.”.

3. In section 9 of the principal Act, after the word “Inspector”, the words “or Honorary Inspector” shall be inserted.

Amendment of section 9.

4. After section 46 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 46A, 46B, 46C, 46D and 46E. Fair Price Shops and Consumers Stores.

“46A. (1) The State Government shall make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a Fair Price Shop and a Consumers Store shall be provided and maintained by the occupier for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which the said Fair Price Shop and Consumers Store shall be provided;

(b) the standards in respect of construction, accommodation, furniture, appliances and equipments for the Fair Price Shop and Consumers Store;

(c) the food-grains and other consumer goods to be supplied therein and prices which may be charged thereof and limit of credit facilities;

(d) the constitution of managing committee for the Fair Price Shop and Consumers Store and representation of workers in the management of the Fair Price Shop and Consumers Store;

(e) the delegation to the Inspector, Chief Inspector and Honorary Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

46B. (1) In every factory wherein more than two hundred and fifty workers are ordinarily employed, adequate and suitable housing accommodation shall be provided and maintained by the occupier for residence of the workers and their families.

Housing accommodation.

(2) Such housing quarters shall provide adequate accommodation, shall be adequately lighted and ventilated, shall have electric fittings, water taps, latrine and bathrooms and shall be maintained in a sanitary condition and shall be repaired and white-washed periodically by the occupier.

(3) The State Government may make rules—

(a) prescribing the distance, location and standards in respect of construction, accommodation, fixtures to be provided under this section, and time limit for constructing the same;

(b) requiring the provision for the sanitation, cleanliness and rent to be charged for the quarters;

(c) requiring the occupier to avail of the facilities provided under various housing schemes including subsidised industrial housing scheme or hire purchase scheme etc.

Joy-trips
and
excursions.

46C. (1) In every factory wherein more than two hundred and fifty workers are ordinarily employed, the occupier shall provide for periodical joy-trips and excursions for each of the workers at least thrice in a year and the expenditure including expenses of transport and meals shall be borne by the occupier.

(2) The Government may make rules for fixing the limit of distance for the trips and the time to be spent for the purpose and days on which such trips may be arranged.

Employ-
ment of
physically
handi-
capped or
disabled
persons.

46D. (1) In every factory wherein more than two hundred and fifty workers are ordinarily employed, the occupier shall recruit and always maintain at least 4 per cent of the total strength of the workers, subject to minimum of 10 and maximum of 100, from amongst the persons who are blind or physically handicapped or disabled and they shall be, if need be, trained for such type of jobs which they can conveniently perform and they shall be paid normal wages which the other workers in the factory on the similar jobs are being paid, and in any case, there shall not be any discrimination or adverse effect in their wages only because they are blind or physically handicapped or disabled.

(2) The Government may make rules—

(a) prescribing the categories of persons who may be treated as blind or physically handicapped or disabled and their enrolment and allocation to the factories;

(b) prescribing time limit for their training and facilities to be provided for such training.

Interest-
free
advances
to
workers.

46E. (1) In every factory wherein more than one hundred workers are ordinarily employed, the occupier shall arrange, on application being made by the concerned workman, for giving interest free advances not exceeding the amount of wages for three months of the concerned worker, for purchase of watches, cycles or medicines, or for payment of school or college fees for their children or such other contingencies which are helpful to and necessary for the worker to discharge his duties more effectively.

(2) The State Government may make rules which may provide for—

(a) conditions for eligibility of the workers for claiming such facilities for advances;

(b) mode or limit of payment and re-payment of such advances.”.

Amend-
ment of
section 51.
Amend-
ment of
section 52.

5. In section 51 of the principal Act, for the words “forty eight”, the words “forty” shall be substituted.

6. In section 52 of the principal Act, in sub-section (1),—

(i) after the words “first day” the words “and the last day” shall be inserted;

(ii) for the words “said day” wherever they occur, the words “said days” shall be substituted;

(iii) for clause (a), the following clause shall be substituted, namely:—

“(a) he has or will have holidays for two whole days on one of the three days immediately before and after the said days respectively, and”;

(iv) in the proviso, for the words “ten days consecutively without a holiday for a whole day”, the words “eight days consecutively without holidays for two whole days” shall be substituted.

6. In section 59 of the principal Act, in sub-section (1), for the words “forty eight hours”, the words “forty hours” shall be substituted.

Amendment of section 59.

7. In section 59 of the principal Act in sub-section (1), for the words for the words “four and a half hours”, the words “four hours” shall be substituted.

Amendment of section 71.

9. In section 79 of the principal Act,—

Amendment of section 79.

(i) in sub-section (1),—

(a) in clause (i), for the words “twenty days”, the words “fifteen days” shall be substituted;

(b) in clause (ii), for the words “fifteen days”, the words “twelve days” shall be substituted;

(ii) in sub-section (5), in the proviso, for the words “thirty” and “forty”, the words “forty-five” and “sixty” respectively shall be substituted;

(iii) in sub-section (6),—

(a) for the word “fifteen”, the word “seven” shall be substituted;

(b) in the first proviso, for the word “thirty”, the word “fifteen” shall be substituted;

(c) in the second proviso, for the word “three”, the word “five” shall be substituted.

10. In section 105 of the principal Act,—

Amendment of section 105.

(b) in sub-section (2), for the words “that of Presidency Magistrate be added at the end;

(b) in sub-section (2) for the words “that of Presidency Magistrate or of a Magistrate of the first class”, the words “a Labour Court or an Industrial Court constituted under section 9 or section 10 respectively of the Bombay Industrial Relations Act, 1946, and in the States where the Bombay Industrial Relations Act, 1946 is not in force, a Labour Court or an Industrial Tribunal constituted under section 7 or section 7A of the Industrial Disputes Act, 1947 respectively” shall be substituted.

Bombay
Act XI of
1947.

14 of 1947.

11. In section 107 of the principal Act, in sub-section (1), for the words “prescribed authority”, the words “Industrial Court constituted under section 10 of the Bombay Industrial Relations Act, 1946, and in the States where the Bombay Industrial Relations Act, 1946 is not in force, the Industrial Tribunal constituted under section 7A of the Industrial Disputes Act, 1947” shall be substituted.

Amendment of section 107.

14 of 1947.

STATEMENT OF OBJECTS AND REASONS

Directive principles of State policy laid down in the Constitution of India, expect on the part of the State endeavours for amelioration of the working conditions of the toiling class and State assistance in creation of job opportunities not only for the persons who are physically fit but for those also who are physically handicapped and disabled.

Responsibilities of establishment of a social order expected from a welfare State should not be left to be shouldered by the State all alone, but should be shared by those who are sharing more from the prosperity of the nation and as such, some burden should be shifted on employers who are having concentration of wealth.

(Accordingly, emitable provisions, *viz.*,

- (i) fair price shops for checking the price rise;
- (ii) housing accommodation for better and peaceful family life;
- (iii) joy-trips for recreation and community life;
- (iv) compulsory employment of physically disabled for dignified social life;
- (v) reduction of working hours for increasing productivity and creation of more job opportunities;
- (vi) credit facilities for necessities;
- (vii) enhanced leave with wages on uniform rate with smaller establishments;
- (viii) association of responsible Trade Unions with administration for effective implementation of the Act; and
- (ix) direct approach to court by Trade Unions for infringement of the Act;

are sought to be made in this Bill to achieve the aforesaid objects.

NEW DELHI;

PRASANNBHAI MEHTA.

The 25th September, 1973.

FINANCIAL MEMORANDUM

Clauses 4, 5, 7 and 9 of the Bill provide for financial assistance to workers, various commitments on the part of employers like enhanced leave with wages, reduced working hours, joy, trips and various other amenities etc. Hence, the Bill, if enacted, is likely to involve a recurring expenditure of about rupees one and a half lakhs from the Consolidated Fund of India in case of Central Government factories.

A non-recurring expenditure of about rupees ten lakhs is also likely to be involved from the Consolidated Fund of India.

However, the amount of expenditure cannot be precisely estimated.

BILL NO. 88 OF 1973

A Bill further to amend the Payment of Bonus Act, 1965

BE it enacted by Parliament in the Twenty-fourth Year of Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Payment of Bonus (Amendment) Act, 1973.

(2) It extends to the whole of India.

(3) It shall come into force on the date or dates which may be notified by the Central Government in the Official Gazette and different dates may be fixed for different provisions and different areas.

(4) Save as otherwise provided in this Act, the provisions appearing hereunder, shall have effect in respect of the accounting year commencing on any day in the year 1972 and in respect of every subsequent accounting year.

Amend-
ment of
section 1.

2. In section 1 of the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act),—

(a) in sub-section (3), in clause (b) for the word “twenty”, the word “ten” shall be substituted.

(b) in sub-section (5), for the word „twenty”, the word “ten” shall be substituted.

3. In section 2 of the principal Act,—

Amend-
ment of
section 2.

(i) in sub-clause (a) of clause (4),

(a) for the words "sixty seven per cent.", the words "seventy-five per cent." shall be substituted.

(b) in sub-clause (b) of clause (4), for the words "sixty per cent.", the words "sixty seven per cent." shall be substituted.

(ii) in clause (13),

(a) for the words and brackets "(other than an apprentice)", the words and brackets "(including an apprentice)" shall be substituted; and

(b) for the words "one thousand and six hundred rupees", the words "two thousand rupees" shall be substituted.

(iii) in sub-clause (b) of clause (16), for the words "forty per cent.", the words "sixty six per cent." shall be substituted.

(iv) in clause (21),

(a) for the words and brackets "(other than remuneration in respect of over-time work)", the words and brackets "(including remuneration in respect of overtime work)" shall be substituted and

(b) after the words "cost of living", the words "and retaining allowance, if any, paid for retaining, the services of the employees" shall be inserted.

4. In section 6 of the principal Act,—

Sums
deductible
from gross
profits.

(i) after clause (b), the following clause (bb) shall be inserted:—

"(bb) such further sums as are specified in respect of the employers in the Third Schedule towards net dividend on preference or equity shares or reserves actually used as working capital throughout the year, or remuneration to the partners of the firms without deducting any taxes on the said amount of dividends or remuneration payable by employer, partner or share holder, as the case may be".

(ii) clause (d) shall be omitted.

5. In sub-section (1) of section 10 of the principal Act,

Amend-
ment of
section 10.

(a) for the words "four per cent.", the words "eight and one third per cent." shall be substituted;

(b) for the words "forty rupees", the words "eighty rupees" shall be substituted;

(c) for the word "not" appearing at the end, the word "loss" shall be substituted;

(d) in proviso to sub-section (1),—

(i) for the words "forty rupees", the words "eighty rupees" shall be substituted; and

(ii) for the words "twenty five rupees" the words "fifty rupees" shall be substituted.

Amend-
ment of
section 11.

6. In section 11 of the principal Act, in sub-section (1), for the words "twenty per cent.", the words "thirty three per cent." shall be substituted.

Amend-
ment of
section 12.

7. In section 12 of the principal Act, for the words "seven hundred and fifty rupees", wherever they occur, the words "one thousand rupees" shall be substituted.

Amend-
ment of
section 14.

8. In clause (c) of section 14 of the principal Act, after the word "employment", the words "or due to sick leave whether with or without wages" shall be inserted.

Amend-
ment of
section 15.

9. In sub-section (1) of section 15 of the principal Act, for the words "twenty per cent.", the words "thirty three per cent." shall be substituted.

Amend-
ment of
section 18.

10. In section 18, of the principal Act, after the words "and the employees shall be entitled", the words "subject to provisions of Payment of Wages Act, 1936" shall be inserted. 4 of 1936.

Amend-
ment of
section 19.

11. In section 19 of the principal Act, in sub-section (1), '(1)' at the end of the proviso, the words "subject to the condition that the employer shall pay, from the due date nine per cent. compound interest on the amount of bonus payable under clause (b)" shall be added;

(ii) the following new clause (c) shall be added:—

"(c) In case of delay in payment of bonus on due date stipulated in sub-clause (b) for any reason whatsoever, the employer shall be liable to pay to the concerned employee nine per cent. compound interest on the amount of bonus till the payment is made to each concerned employee and shall also be liable to pay to the Government damages not exceeding 50 per cent. of the amount in arrears and penalty of rupees 100 per day for late payment of the stipulated time limit, and the amount of damages and penalty shall be used for the welfare of the employees of the establishment either through the trade unions functioning in the establishment or through any such body constituted under any law for the time being in force for the purpose of welfare of the working class."

Amend-
ment of
section 21.

12. In section 21 of the principal Act,—

(i) after the words "his employer under", the words "section 10 or 11 of this Act" shall be inserted;

(ii) after the word "assignee or heirs", the words "or an office bearer of a registered trade union" shall be inserted; and

(iii) after the words "issue a certificate for that amount", the words "together with compound interest at nine per cent. due from the stipulated time provided in section 19 of this Act as damages and penalty" shall be inserted.

Amend-
ment of
section
22A.

13. After section 22 of the principal Act, the following new section shall be inserted:—

Deposits
pending
disputes.

"22A. When there is a dispute, the employer may, without prejudice to his rights and contentions, deposit the amount of bonus with the authority before whom the dispute is pending and in such cases, the employer shall not be liable to pay interest, damages and penalty, provided in section 19 of this Act."

Amend-
ment of
section 25.

14. In sub-section (3) of section 25 of the principal Act, the words "or shall draw an adverse inference against the employer" shall be added at the end.

15. After sub-section (1) of section 27 of the principal Act, the following new sub-section shall be inserted:—

Amendment of section 27.

16 of 1926.

"1A. President, General Secreary and Secretaries of every trade unions registered under Trade Unions Act, 1962, which has completed or completes 5 years of existence and has got on their rolls living and paid membership of at least 25 per cent. of the total strength of persons employed in the factory or establishment in which such trade unions are functioning, shall be "Honorary Inspectors" for the said factory or establishment."

16. In section 30 of the principal Act,—

Amendment of section 30.

(i) in sub-section (1), the words "or by an office bearer of a registered trade union functioning in the establishment or the employer concerned" shall be added at the end.

Bombay
Act XI
of 1947.
14 of 1947.

(ii) in sub-section (2), for the words "a presidency magistrate of the first class", the words "an Industrial Court constituted under section 10 of the Bombay Industrial Relations Act, 1946, and in the States where there is no such "Industrial Court", the "Industrial Tribunal" constiuted under section 7A of the "Industrial Disputes Act, 1947" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Absence of any provision in the Payment of Bonus Act, 1965 regarding charging of interest, penalty and damages for the late payment of annual bonus provides an incentive to the employers for withholding payment of bonus resulting in defeating the whole purpose of the Act of payment of annual bonus to fill up the gap in between the actual wage and the living wage.

The percentage of bonus originally fixed and subsequently enhanced only for the accounting years 1971 and 1972 by the Government and day to day utterance by the leaders of the political parties has raised an expectation and aspiration amongst the working class and the question of bonus still continues to be a burning problem every year and as such, to put at rest the controversy over the question of bonus, once for all, the present Act requires certain amendments to provide for;

- (i) Higher percentage of available surplus as allowable surplus,
- (ii) Coverage of apprentices and persons drawing salary or wage upto Rs. 2000/- per month within purview of the Act,
- (iii) Inclusion of payment for overtime work and retaining allowance, if any, in the definition of wages.
- (iv) Higher quantum of minimum bonus and maximum bonus,
- (v) Restricting the burden of taxes on the establishment,
- (vi) Requiring the employer:—
 - (a) to pay the taxes on their income from dividend,
 - (b) to pay interest to the employees, and
 - (c) penalty and damages to the Government for the late payment of bonus beyond stipulated time limit,
- (vii) Applying the amount of penalty and damages for welfare of the working class,
- (viii) Appointment of Honorary Inspectors, and
- (ix) Association of responsible Trade Unions with the task of more effective implementation of the Act.

The Bill seeks to achieve the aforesaid objects through the amendments sought in this Bill.

NEW DELHI;
The 25th September, 1973.

PRASANNBHAI MEHTA.

FINANCIAL MEMORANDUM

The Bill seeks to enhance the quantum of bonus and provides for the payment of interest, penalty and damages on late payment of bonus by the employers. Provisions of clauses 3, 5, 6, 7 and 11 of the Bill, if enacted, would involve a recurring expenditure of rupees five lakhs from the Consolidated Fund of India.

Non-recurring expenditure worth rupees two lakhs is also likely to be involved from the Consolidated Fund of India.

S. L. SHAKDHER,
Secretary-General.

